
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

ABBY TISCARENO, et al.,

Plaintiffs,

v.

LORI FRASIER, et al.,

Defendants.

**MEMORANDUM DECISION AND
ORDER**

Case No. 2:07-CV-336

Judge Clark Waddoups

Before the court is Plaintiffs' motion to strike Defendant Anderson's Motion and Memorandum to Stay Discovery and to strike the joinder filed by Defendants IHC and Beerman (Pls.' Mot. Strike) (Dkt. No. 158). Plaintiffs contend that Defendants' motions should be stricken because they were filed late. (Pls.' Mot. Strike, 2.) Indeed, the magistrate judge set a deadline for motions to stay discovery for September 9, 2011. (Dkt. No. 135.) However, Defendant Anderson failed to submit such a motion until September 22, 2011, and Defendants Beerman and IHC until September 23, 2011.

Pursuant to Fed. R. Civ. P. 6(b)(1), the court may extend a deadline "before the original time or its extension expires; or on motion made after the time has expired if the party failed to act because of excusable neglect." At no time has the court received such a motion from Defendants. Rather, Defendant Anderson's counsel has simply stated in a footnote in its opposition to Plaintiffs' motion to strike that the due date for the motion was "mis-calendared," and that striking the motions would be improper due to some distinction between "substance" and "form." (Opp'n, 2 n.1)(Dkt. No. 161). Without a motion for an extension of time before the

court explaining counsels' "excusable neglect," Defendants' argument is rejected. The Motion to Stay (Dkt. No. 152) and Motion for Joinder (Dkt. No. 155) are DENIED. Plaintiffs' motion to strike (Dkt. No. 155) is DENIED as moot.

DATED this 14th day of October, 2011.

BY THE COURT:



Clark Waddoups

United States District Judge